



Wolverhampton Safeguarding Children Board Youth Produced Sexual Imagery (sexting) Policy Guidance

This policy guidance should be read in conjunction with the following:

- [Sexting in Schools and Colleges](#): Responding to incidents and safeguarding young people – UK Council for Child Internet Safety, 2016
- [Keeping Children Safe in Education - Statutory guidance for schools and colleges](#) – DfE, 2016
- [Searching, screening and confiscation - Advice for Headteachers, school staff and governing bodies](#) – DfE, 2014
- WSCB Primary & Secondary Anti-Bullying Charters
- School's individual eSafety & Safeguarding policies

Whilst largely focussing on educational settings, this guidance is equally applicable to a wide range of organisations that come into contact / provide services for children and young people including: voluntary and community organisations; health services, Local Authority children and family services; adult services that support families.

If your organisation is not a school you will need to give consideration to the wording to describe your establishment and staff, and policy / procedures in the 'Response' section on page 4 of this guidance.

Background

The rise of 'sexting' or youth produced sexual imagery has caused significant issues in educational settings for a number of reasons. Creating and sharing sexual photos and videos of under-18s is illegal and therefore causes the greatest complexity for schools and other agencies when responding. It also presents a range of risks which need careful management. The types of incidents which this advice covers are:

- A person under the age of 18 creates and shares sexual imagery of themselves with a peer under the age of 18
- A person under the age of 18 shares sexual imagery created by another person under the age of 18 with a peer under the age of 18 or an adult
- A person under the age of 18 is in possession of sexual imagery created by another person under the age of 18

'Keeping Children Safe in Education' 2016 highlights the need for settings to take a proportionate and pragmatic approach to incidents in order to avoid the unnecessary criminalisation of young people. The purpose of this policy is to provide guidance on dealing with Youth Produced Sexual Imagery or 'sexting' both from a safeguarding and educational perspective.

Context

The UKCCIS document 'Sexting in schools and colleges: responding to incidents and safeguarding young people' describes the rationale for the change in terminology from 'Sexting' to 'Youth Produced Sexual Imagery':

Youth produced sexual imagery' best describes the practice because:

- 'Youth produced' includes young people sharing images that they, or another young person, have created of themselves.
- 'Sexual' is clearer than 'indecent.' A judgement of whether something is 'decent' is both a value judgement and dependent on context.

- ‘Imagery’ covers both still photos and moving videos (and this is what is meant by reference to imagery throughout the document).

Educational settings (and other organisations providing activities or services for children, young people and families) should consider adopting this terminology to accurately describe the practice.

‘Youth produced sexual imagery’ therefore should be defined as images or videos generated by children under the age of 18 that are of a sexual nature. These images may be shared between children and young people and/or adults via a number of devices such as phones, tablets, webcams or published to social media websites.

We should understand that children and young people are likely to push accepted boundaries, to display potentially risky behaviours especially as they become more sexually and socially aware. This practice, however, whilst sometimes considered the ‘norm’ within relationships, should raise professional concerns and should always be acted upon.

Definitions

According to the Wolak and Finkelhor model, 2011, youth produced sexual imagery can be defined as being either ‘Experimental’ or ‘Aggravated’ and will require professionals to make informed and pragmatic judgements when responding. It is important that professionals understand the difference in order to respond proportionately.

Aggravated incidents of sexting involved criminal or abusive elements beyond the creation of an image. These included further elements, adult involvement or criminal or abusive behaviour by minors such as sexual abuse, extortion, threats, malicious conduct arising from personal conflicts, or creation or sending or showing of images without the knowledge or against the will of a minor who was pictured.

Experimental incidents of sexting involved youths taking pictures of themselves to share with established boy or girlfriends, to create romantic interest in other youth, or for reasons such as attention seeking. There was no criminal element (and certainly no criminal intent) beyond the creation and sending of the images and no apparent malice or lack of willing participation.

Reprinted from Wolak and Finkelhor ‘Sexting: A Typology’ March 2011

The Law

(Taken from: *Sexting in schools and colleges: responding to incidents and safeguarding young people* – UKCCIS, 2016)

The complexity in responding to youth produced sexual imagery is due to its legal status. Making, possessing and distributing any imagery of someone under 18 which is ‘indecent’ is illegal. This includes imagery of yourself if you are under 18.

The relevant legislation is contained in the Protection of Children Act 1978 (England and Wales) as amended in the Sexual Offences Act 2003 (England and Wales).

Specifically:

- It is an offence to possess, distribute, show and make indecent images of children.
- The Sexual Offences Act 2003 (England and Wales) defines a child, for the purposes of indecent images, as anyone under the age of 18.

‘Indecent’ is not defined in legislation. When cases are prosecuted, the question of whether any photograph of a child is indecent is for a jury, magistrate or District Judge to decide based on what is the recognised standard of propriety. For most purposes, if imagery contains a naked young person, a topless girl, and/or displays genitals or sex acts, including masturbation, then it will be considered indecent. Indecent images may also include overtly sexual images of young people in their underwear.

The law criminalising indecent images of children was created long before mass adoption of the internet, mobiles and digital photography. It was also created to protect children and young people from adults seeking to sexually

abuse them or gain pleasure from their sexual abuse. It was not intended to criminalise children. Despite this, young people who share sexual imagery of themselves, or peers, are breaking the law.

WE SHOULD, HOWEVER, DO ALL WE CAN TO AVOID UNNECESSARY CRIMINALISATION OF CHILDREN.

Children with a criminal record face stigma and discrimination in accessing education, training, employment, travel and housing and these obstacles can follow a child into adulthood.

Whilst young people creating and sharing sexual imagery can be very risky, it is often the result of young people's natural curiosity about sex and their exploration of relationships. Often, young people need education, support or safeguarding, not criminalisation.

The National Police Chiefs Council (NPCC) has made clear that incidents involving youth produced sexual imagery should primarily be treated as safeguarding issues.

Schools (and other organisations) may respond to incidents without involving the police. The current Association of Chief Police Officers (ACPO) position is that:

'ACPO does not support the prosecution or criminalisation of children for taking indecent images of themselves and sharing them. Being prosecuted through the criminal justice system is likely to be upsetting and distressing for children especially if they are convicted and punished. The label of sex offender that would be applied to a child or young person convicted of such offences is regrettable, unjust and clearly detrimental to their future health and wellbeing.'

www.ceop.police.uk/Documents/ceopdocs/externaldocs/ACPO_Lead_position_on_Self_Taken_Images.pdf

Police involvement and future DBS checks

It should be the policy of establishments, where possible, to avoid involving the police unless particular 'Aggravated' incidents require it (see 'Responding to Youth Produced Sexual Imagery' flowchart at the end of this document for guidance). It should also be a responsibility of all establishments to convey this message to parents and carers.

Where the police are notified of incidents of youth produced sexual imagery they are obliged, under the Home Office Counting rules and National Crime Recording Standards, to record the incident on their crime systems. The incident will be listed as a 'crime' and the young person involved will be listed as a 'suspect.'

This is not the same as having a criminal record.

As of January 2016 the Home Office launched a new outcome code (outcome 21) to help formalise the discretion available to the police when handling crimes such as youth produced sexual imagery. This means that even though a young person has broken the law and the police could provide evidence that they have done so, **the police can record that they chose not to take further action as it was not in the public interest**

Outcome 21 states:

Further investigation, resulting from the crime report, which could provide evidence sufficient to support formal action being taken against the suspect is not in the public interest. This is a police decision.

Information falling short of conviction or caution can only be included on a DBS certificate when an individual has applied for an Enhanced Criminal Records Check. In such cases it would be for a chief officer to consider what information (in addition to convictions and cautions held on the Police National Computer) should be provided for inclusion on a DBS certificate... If this was an isolated incident, it is then unlikely that there would be many instances in which the disclosure test, which the chief officer must apply, would be passed.

However, it is not possible to categorically say that an incident of youth produced sexual imagery recorded on police systems with outcome 21 would never be disclosed on a DBS certificate.

It should be noted that prosecution of children for sharing indecent images for a first offence is rare. The decision to criminalise children and young people for sending sexualised images will need to be considered and made on a case by case basis based on a number of factors including age, intent and vulnerability of children involved.

XXXXXXXXX School/establishment response to youth produced sexual imagery

The following advice is taken from 'Sexting in Schools and Colleges: Responding to incidents and safeguarding young people' – UK Council for Child Internet Safety

An initial response

Any establishment should deal with all incidents of youth produced sexual imagery as a safeguarding concern and should respond swiftly and confidently to ensure that **children/young people** are safeguarded, supported and educated. They should be guided by the principle of proportionality and the primary concern must be the welfare and protection of the **children/young people** involved.

All incidents involving youth produced sexual imagery should will be responded to in line with our school's safeguarding and child protection policy.

When an incident involving youth produced sexual imagery comes to our attention:

- The incident will be referred to the Designated Safeguarding Lead (DSL) (**Insert name here**) as soon as possible.
- The DSL will hold an initial review meeting with appropriate school staff.
- There may be subsequent interviews with the **children/young people involved** (if appropriate).
- Parents will be informed at an early stage and involved in the process unless there is good reason to believe that involving parents would put the **child/young person** at risk of harm.
- At any point in the process if there is a concern **a child/young person** has been harmed or is at risk of harm a referral should be made to children's social care and/or the police immediately.

Dealing with Disclosures

Disclosures about youth produced sexual imagery can happen in a variety of ways. The **child/young person** affected may inform a class teacher, the DSL in school, or any member of the school staff. They may report through an existing reporting structure, or a friend or parent may inform someone in school or college, or inform the police directly.

All members of staff (including non-teaching staff) will be made aware of how to recognise and refer any disclosures of incidents involving youth produced sexual imagery. This will be covered within staff training.

Any direct disclosure by a young person will be taken very seriously. We recognise that a young person who discloses they are the subject of sexual imagery is likely to be embarrassed and worried about the consequences. It is likely that disclosure in school is a last resort and they may have already tried to resolve the issue themselves.

We believe that we should do all we can to avoid unnecessary criminalisation of children. It is our policy that, where possible, we avoid involving the police unless particular 'Aggravated' incidents require it. With this in mind, we encourage parents and carers (through a variety of communications) to approach school with a disclosure in the first instance (**unless the severity of a particular incident requires immediate police involvement**).

Initial review meeting

(The 'Responding to Youth Produced Sexual Imagery' flowchart at the end of this document should help determine a course of action)

Our initial review meeting will consider the initial evidence and aim to establish the following:

- Whether there is an immediate risk to a young person or young people – is the incident ‘Experimental’ or ‘Aggravated’?
- If a referral should be made to Wolverhampton’s Multi-Agency Safeguarding Hub (MASH) and/or the police
- If it is necessary to view the imagery in order to safeguard the young person – **in most cases, imagery should not be viewed**
- What further information is required to decide on the best response
- Whether the imagery has been shared widely and via what services and/or platforms. This may be unknown.
- Whether immediate action should be taken to delete or remove images from devices or online services
- Any relevant facts about the young people involved which would influence risk assessment
- If there is a need to contact another school, college, setting or individual
- Whether to contact parents or carers of the pupils involved - in most cases parents should be involved

An immediate referral to Wolverhampton’s Multi-Agency Safeguarding Hub (MASH) will be made at this initial stage if:

The incident is considered to be ‘Aggravated’ AND

- The young person (people) involved is/are 12 years old or under
- The incident also involves an adult (18 and above)
- If older young people (13-17) are involved, a risk assessment identifies the incident as high risk
- There is reason to believe that a young person has been coerced, blackmailed or groomed, or if there are concerns about their capacity to consent (for example, owing to special educational needs)
- What you know about the imagery suggests the content depicts sexual acts which are unusual for the young person’s developmental stage, or are violent
- We have reason to believe a young person is at immediate risk of harm owing to the sharing of the imagery, for example, the young person is presenting as suicidal or self-harming

There may be police involvement at this stage if Wolverhampton MASH consider it appropriate.

If none of the above apply, then our school may decide to respond to the incident without involving the MASH (or police) - however we may choose to escalate the incident at any time if further information/concerns come to light.

The decision to respond to the incident without involving the MASH (or police) will be made in cases when the DSL is confident that they have enough information to assess the risks to pupils involved and the risks can be managed within the school’s pastoral support and disciplinary framework and, if appropriate, their local network of support.

The decision will be made by the DSL with input from the Headteacher (**Insert name**) and input from other members of staff if appropriate. The decision will be recorded in line with school policy. The decision will be in line with the school’s safeguarding and child protection procedures and will be based on consideration of the best interests of the young people involved. This will take into account proportionality as well as the welfare and protection of the young people. The decision will be reviewed throughout the process of responding to the incident.

If the incident is considered to be ‘Experimental’ i.e. if a young person has shared imagery consensually, such as when in a romantic relationship, or as a joke, and there is no intended malice, it may be more appropriate for our school to manage the incident directly. In contrast, any incidents with aggravating factors, for example, a young person sharing someone else’s imagery without consent and with malicious intent, will be referred to the MASH (and/or police).

If we have any doubts about whether to involve other agencies, establishments should liaise with the MASH to seek further advice. **It is worth noting that the Police are not able to offer general advice and guidance on incidents. If the children involved are named or specifics are given, the Police are duty-bound to record and investigate any criminal activity.**

Assessing the risks

The circumstances of incidents can vary widely. If at the initial review stage a decision has been made not to refer to Wolverhampton's MASH or police, the DSL will conduct a further review (including an interview with the **children/young people** involved) to establish the facts and assess the risks.

When assessing the risks, the following will be considered:

- Why was the imagery shared?
- Was the young person coerced or put under pressure to produce the imagery?
- Who has shared the imagery?
- Where has the imagery been shared?
- Was it shared and received with the knowledge of the pupil in the imagery?
- Are there any adults involved in the sharing of the imagery?
- What is the impact on the young people involved?
- Do the young people involved have additional vulnerabilities?
- Does the young person understand consent?
- Has the young person taken part in this kind of activity before?

Our DSL will always use their professional judgement in conjunction with their colleagues to assess incidents.

Informing parents or carers

Parents or carers will be informed and involved in the process at an early stage unless informing the parent will put the **child/young person** at risk of harm. Any decision not to inform the parents would generally be made in conjunction with other services such as the MASH and/or the police, who would take the lead in deciding when the parents should be informed.

Our DSL may work with the **child/young people** involved to decide on the best approach for informing parents. In some cases, our DSL may work to support the young people to inform their parents themselves.

Reporting incidents to the police

If it is necessary to refer to the police, contact should be made by dialling 101.

Once a report is made to the police, the report has to be recorded and the police will conduct an investigation. This may include seizure of devices and interviews with the young people involved.

Securing and handing over devices to the police

If any devices need to be seized and passed onto the police, then the device(s) should be confiscated and the police will be called. The device should be turned off and placed under lock and key until the police are able to come and retrieve it.

Our school will follow the guidance set out in DfE Guidance [Searching, screening and confiscation](#) (February 2014)

Children's social care contact and referrals

If our DSL is aware that children's social care is currently involved with a **child/young person** involved in an incident of youth produced sexual imagery, then they will contact children's social care. They should also contact children's social care if they believe they may be involved, or have been involved with a young person in the past.

If as a result of the investigation the DSL believes there are wider issues which meet the threshold for children's social care involvement, then they will make a referral in line with our child protection procedures.

Our DSL is aware of, and familiar with, any relevant local policies, procedures and contact points/names which are available to support schools in responding to youth produced sexual imagery.

Searching devices, viewing and deleting imagery

Viewing the imagery

Our staff will **not** view youth produced sexual imagery unless there is good and clear reason to do so. Wherever possible responses to incidents will be based on what DSLs have been told about the content of the imagery.

The decision to view imagery will be based on the professional judgement of our DSL and will always comply with our school's safeguarding and child protection policy and procedures. Imagery will never be viewed if the act of viewing will cause significant distress or harm to the pupil.

If a decision is made to view imagery, our DSL would need to be satisfied that viewing:

- Is the only way to make a decision about whether to involve other agencies (i.e. it is not possible to establish the facts from the young people involved)?
- Is necessary to report the image to a website, app or suitable reporting agency to have it taken down, or to support the young person or parent in making a report
- Is unavoidable because a young person has presented an image directly to a staff member or the imagery has been found on a school device or network

If it is necessary to view the imagery, then the DSL should:

- Never copy, print or share the imagery; this is illegal
- Discuss the decision with the Headteacher
- Ensure viewing is undertaken by our DSL or another member of the safeguarding team with delegated authority from the Headteacher
- Ensure viewing takes place with another member of staff present in the room, ideally the Headteacher or a member of the senior leadership team. This staff member does not need to view the images.
- Wherever possible ensure viewing takes place on school or college premises, ideally in the Headteacher or a member of the senior leadership team's office.
- Ensure wherever possible that images are viewed by a staff member of the same sex as the young person in the imagery
- Record the viewing of the imagery in the school's safeguarding records including who was present, why the image was viewed and any subsequent actions and ensure this is signed and dated and meets the wider standards set out by Ofsted for recording safeguarding incidents

If youth produced sexual imagery has been unavoidably viewed by a member of staff either following a disclosure from a young person or as a result of a member of staff undertaking their daily role (such as IT staff monitoring

school systems) then DSLs should ensure that the staff member is provided with appropriate support. Viewing youth produced sexual imagery can be distressing for both young people and adults and appropriate emotional support may be required.

Deletion of images

If our school decides that other agencies do not need to be involved, then consideration will be given to deleting imagery from devices and online services to limit any further sharing of the imagery.

The *Searching, Screening and Confiscation advice* highlights that schools have the power to search pupils for devices, search data on devices and delete youth produced sexual imagery.

However, just as in most circumstances it is not recommended that school staff view imagery, it is recommended that schools should not search through devices and delete imagery unless there is good and clear reason to do so.

It is recommended that in most cases young people are asked to delete imagery and to confirm that they have deleted the imagery. Young people will be given a deadline for deletion across all devices, online storage or social media sites.

Young people will be reminded that possession of youth produced sexual imagery is illegal. They will be informed that if they refuse or it is later discovered they did not delete the image they are committing a criminal offence **and the police may become involved. All of these decisions will be recorded: including times, dates and reasons for decisions made and logged in our safeguarding records.** Parents and carers will also be informed unless this presents a further risk to the young person.

At this point our school may want to invoke our own disciplinary measures to discourage young people from sharing, creating or receiving images but this will be at the discretion of the Headteacher and DSL and it will be in line with our behaviour policies.

Interviewing and talking to the young person/people involved

Once our school has assessed a young person as not at immediate risk, it may be necessary to have a conversation with them and decide the best course of action. If possible, our DSL will carry out this conversation. However, if the young person feels more comfortable talking to a different teacher, this will be facilitated where possible.

When discussing the sharing of youth produced sexual imagery, our DSL:

- Recognises the pressures that young people can be under to take part in sharing such imagery and, if relevant, supports the young person's parents to understand the wider issues and motivations around this.
- Remains solution-focused and avoids questions such as 'why have you done this?' as this may prevent the young person from talking about what has happened.
- Reassures the young person that they are not alone and our **school or college** will do everything that they can to help and support them.
- Helps the young person to understand what has happened by discussing the wider pressures that they may face and the motivations of the person that sent on the imagery.
- Discusses issues of consent and trust within healthy relationships. Explain that it is not ok for someone to make them feel uncomfortable, to pressure them into doing things that they don't want to do, or to show them things that they are unhappy about. Let them know that they can speak to our DSL if this ever happens.

The purpose of the conversation is to:

- Identify, **without looking**, what the image contains and whether anyone else has been involved.
- Find out who has seen or shared the image and how further distribution can be prevented.

Recording incidents

All incidents relating to youth produced sexual imagery will be recorded in school. This includes incidents that have been referred to external agencies and those that have not.

At **XXXXXXXXXX School** we understand that Ofsted highlight that when inspecting schools in relation to safeguarding they look for the following:

- Are records up to date and complete?
- Do records demonstrate both effective identification and management of the risk of harm?
- Do records demonstrate sound decision-making, appropriate responses to concerns and evidence of relevant referrals made in a timely manner?
- Do they indicate that appropriate action is taken in response to concerns and allegations in a timely manner?
- Do they show evidence of tenacity in following up concerns with relevant agencies?
- Do they provide evidence of effective partnership working and sharing of information?
- Is there evidence of attendance at or contribution to inter-agency meetings and conferences?
- Is there clarity about the school's policy relating to the sharing of information internally, safe keeping of records, and transfer when a pupil leaves the school?

In cases that relate to youth produced sexual imagery our school will reflect all of the areas above when we are recording incidents.

In addition, if our school decides not to refer incidents to the police or children's social care, we will record our reason for doing so and ensure that this is signed off by the Headteacher.

Reporting youth produced sexual imagery online

At **XXXXXXXXXX School** we will provide help and support with the removal of imagery from devices and social media, especially if they are distressed. Most online service providers offer a reporting function for account holders and some offer a public reporting function to enable a third party to make a report on behalf of the young person.

Educating Children/Young People

(IF YOU CHOOSE TO ADD A SECTION ON EDUCATION AND YOUR CURRICULUM PLEASE ENSURE IT ACCURATELY REFLECTS YOUR PRACTICE AND SCHEME OF WORK – Wolverhampton Learning Technologies are able to offer support and suggested resources.)

Keeping Children Safe in Education statutory guidance states that schools 'should ensure children are taught about safeguarding, including online, through teaching and learning opportunities'. In line with this, schools should provide young people with age appropriate opportunities to learn about the issue of youth produced sexual imagery. **(Primary schools may wish to adapt these statements to reflect their curriculum e.g. sending inappropriate images rather than youth produced sexual imagery)**

Learning about youth produced sexual imagery cannot be taught in isolation. Learning will be located within our **developmental PSHE education programme, as well as in the school's computing programme. (PLEASE PERSONALISE TO REFLECT YOUR SCHOOL CURRICULUM/SCHEME OF WORK)** where it should reflect the requirements of the National Curriculum programme of study for computing.

Given the potential sensitivity of these lessons our staff will ensure that this issue is taught within an emotionally safe classroom climate where clear ground rules have been negotiated and established and where boundaries around teacher confidentiality have been clarified. If during any lesson teachers suspect any child or young person is vulnerable or at risk the school's safeguarding protocols will always be followed.

Our school will consider:

- What specific learning is provided in the curriculum *about* youth produced sexual imagery? This focuses on factual information and may include:
 - what it is
 - how it is most likely to be encountered
 - the consequences of requesting, forwarding or providing such images, including when it is and is not abusive
 - issues of legality
 - the risk of damage to peoples' feelings and reputation
- What specific learning is provided to ensure children and young people have the strategies and skills required to *manage*:
 - specific requests or pressure to provide (or forward) such images
 - the receipt of such images

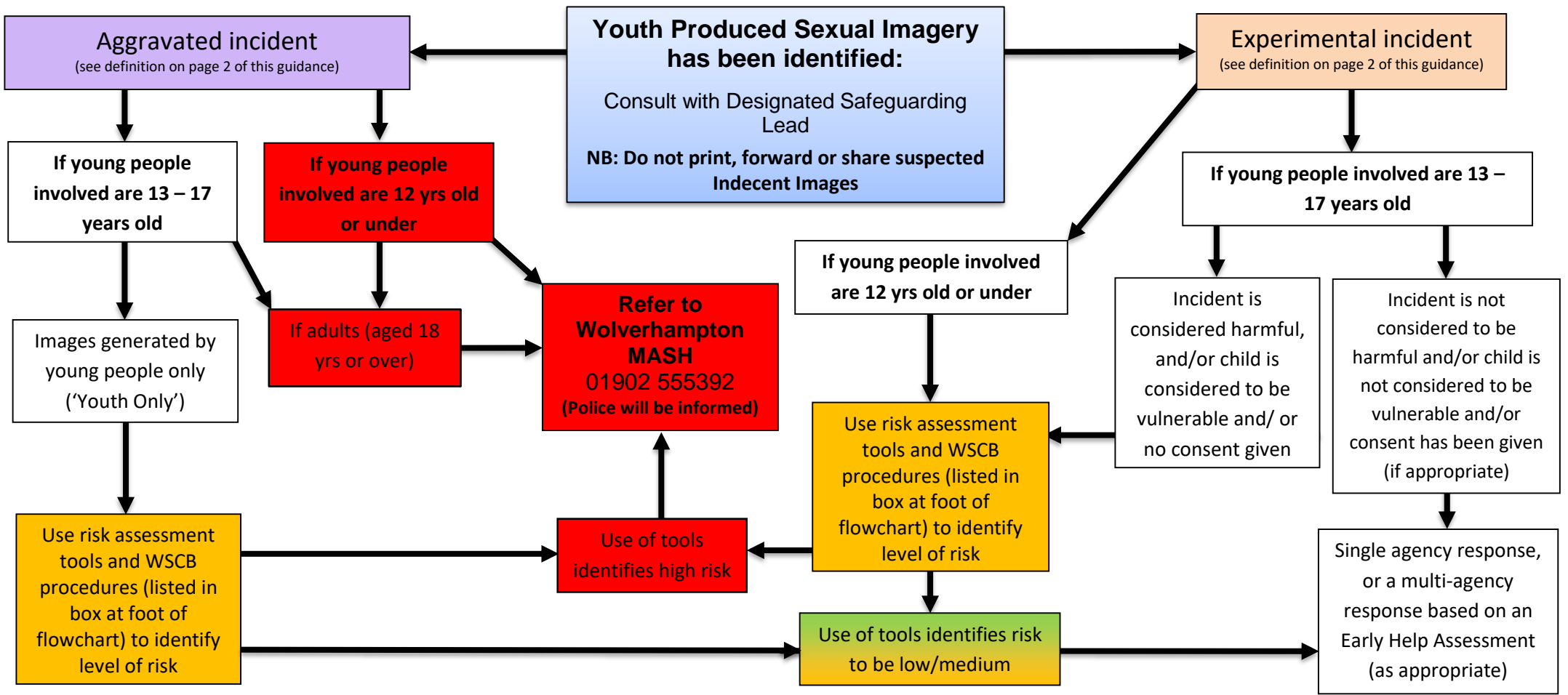
This will include who to tell; what to say; what to do; what not to do and where to get support from within and outside of the school.

At XXXXXXXX School we recognise how difficult it may be for children and young people to challenge or deny their peers' requests for images, especially those to whom they are attracted or whose approval they seek. We understand may also be extremely difficult for them to ask adults for help. Young people may have made a decision they now regret and may find it difficult or embarrassing to ask for help. It is essential that lessons help children and young people develop the confidence they may need to put their skills and strategies into action. It is therefore important that children and young people understand our school's policy towards youth produced sexual imagery. The content of this policy and the protocols our school will follow in the event of an incident can be explored as part of this learning. This reinforces the inappropriate nature of abusive behaviours and can reassure children and young people that our school will support them if they experience difficulties or have concerns.

Our school will consider:

- What *underpinning protective learning* is being provided by the school's planned PSHE education programme and wider curriculum? This will include work on:
 - communication
 - understanding healthy relationships including trust
 - understanding and respecting the concept of genuine consent
 - understanding our rights (especially our collective right to *be* safe and to *feel* safe)
 - recognising abusive and coercive language and behaviours
 - accepting our responsibilities (especially our responsibility to respect others trust and protect their right to be physically, emotionally and reputationally safe)

We understand that without this underpinning learning, *specific* learning about youth produced sexual imagery may have limited impact.



Appropriate guidance and risk assessment tools may include:

- [WSCB Risk Assessment Matrix](#)
- [WSCB CSE Guidance](#)
- [WSCB: Thresholds of Support to Children and Families in Wolverhampton](#)
- [WSCB: Working with Sexually Active Young People Under the Age of 18 Protocol](#)
- [WSCB: Child Abuse and Information Technology \(ICT\)](#)
- Brook Traffic Lights tool <https://www.brook.org.uk/our-work/category/sexual-behaviours-traffic-light-tool>

*All procedures are available at <http://wolverhamptonscb.proceduresonline.com/>